

Tab 8-C

House Journal Activity

**8/31/05 – Substitute (H-1) not adopted,
substitute (H-2) adopted, placed on third
reading, placed on immediate passage,
passed; given immediate effect Roll Call
357 Yeas 104 Nays 3, title amended,
returned to Senate – House Journal
No. 71, p. 1254.**

No. 71
STATE OF MICHIGAN
JOURNAL
OF THE
House of Representatives
93rd Legislature
REGULAR SESSION OF 2005

House Chamber, Lansing, Wednesday, August 31, 2005.

1:00 p.m.

The House was called to order by the Speaker.

The roll was called by the Clerk of the House of Representatives, who announced that a quorum was present.

Accavitti—present	Emmons—present	Leland—present	Robertson—present
Acciavatti—present	Espinoza—present	Lemmons, III—present	Rocca—present
Adamini—present	Farhat—present	Lemmons, Jr.—present	Sak—present
Amos—present	Farrah—present	Lipsev—present	Schuitmaker—present
Anderson—present	Gaffney—present	Marleau—present	Shaffer—present
Angerer—present	Garfield—present	Mayes—present	Sheen—present
Ball—present	Gillard—present	McConico—present	Sheltrown—present
Baxter—present	Gleason—present	McDowell—present	Smith, Alma—present
Bennett—present	Gonzales—present	Meisner—present	Smith, Virgil—present
Bieda—excused	Gosselin—present	Meyer—present	Spade—present
Booher—present	Green—present	Miller—present	Stahl—present
Brandenburg—present	Hansen—present	Moolenaar—present	Stakoe—present
Brown—present	Hildenbrand—present	Moore—present	Steil—present
Byrnes—present	Hood—present	Mortimer—present	Stewart—present
Byrum—present	Hoogendyk—present	Murphy—present	Taub—present
Casperson—present	Hopgood—present	Newell—present	Tobocman—present
Caswell—present	Huizenga—present	Nitz—present	Vagnozzi—present
Caul—present	Hummel—present	Nofs—present	Van Regenmorter—present
Cheeks—present	Hune—present	Palmer—present	Vander Veen—present
Clack—present	Hunter—present	Palsrok—present	Walker—present
Clemente—present	Jones—present	Pastor—present	Ward—present
Condino—present	Kahn—present	Pavlov—present	Waters—present
Cushingberry—excused	Kehrl—present	Pearce—present	Wenke—present
DeRoche—present	Kolb—present	Phillips—present	Whitmer—present
Dillon—present	Kooiman—present	Plakas—present	Williams—present
Donigan—present	LaJoy—excused	Polidori—present	Wojno—present
Drolet—present	Law, David—present	Proos—present	Zelenko—present
Elsenheimer—present	Law, Kathleen—present		

e/d/s = entered during session

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[No. 71]

Second Reading of Bills**Senate Bill No. 416, entitled**

A bill to amend 1978 PA 33, entitled "An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts," by amending the title and sections 1, 2, and 4 (MCL 722.671, 722.672, and 722.674), section 1 as amended by 2003 PA 192, and by adding part II and a heading for part I; and to repeal acts and parts of acts.

Was read a second time, and the question being on the adoption of the proposed substitute (H-1) previously recommended by the Committee on Judiciary,

The substitute (H-1) was not adopted, a majority of the members serving not voting therefor.

Rep. Nofs moved to substitute (H-2) the bill.

The motion prevailed and the substitute (H-2) was adopted, a majority of the members serving voting therefor.

Rep. Ward moved that the bill be placed on the order of Third Reading of Bills.

The motion prevailed.

Rep. Ward moved that the bill be placed on its immediate passage.

The motion prevailed, a majority of the members serving voting therefor.

By unanimous consent the House returned to the order of

Third Reading of Bills**Senate Bill No. 416, entitled**

A bill to amend 1978 PA 33, entitled "An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts," by amending the title and sections 1, 2, and 4 (MCL 722.671, 722.672, and 722.674), section 1 as amended by 2003 PA 192, and by adding part II and a heading for part I; and to repeal acts and parts of acts.

Was read a third time and passed, a majority of the members serving voting therefor, by yeas and nays, as follows:

Roll Call No. 357**Yeas—104**

Accavitti	Espinoza	Lemmons, Jr.	Rocca
Acciavatti	Farhat	Lipsey	Sak
Adamini	Farrah	Marleau	Schuitmaker
Amos	Gaffney	Mayes	Shaffer
Anderson	Gillard	McConico	Sheen
Angerer	Gleason	McDowell	Sheltrown
Ball	Gonzales	Meisner	Smith, Alma
Baxter	Gosselin	Meyer	Smith, Virgil
Bennett	Green	Miller	Spade
Booher	Hansen	Moolenaar	Stahl
Brandenburg	Hildenbrand	Moore	Stakoe
Brown	Hood	Mortimer	Steil
Byrnes	Hoogendyk	Murphy	Stewart
Byrum	Hopgood	Newell	Taub
Casperson	Huizenga	Nitz	Tobocman
Caswell	Hummel	Nofs	Vagnozzi
Caul	Hune	Palmer	Van Regenmorter
Cheeks	Hunter	Palsrok	Vander Veen
Clack	Jones	Pastor	Walker

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Clemente
Condino
DeRoche
Dillon
Donigan
Elsenheimer
Emmons

Kahn
Kehrl
Kooiman
Law, David
Law, Kathleen
Leland
Lemmons, III

Pavlov
Pearce
Phillips
Plakas
Polidori
Proos
Robertson

Ward
Waters
Wenke
Whitmer
Williams
Wojno
Zelenko

Nays—3

Drolet

Garfield

Kolb

In The Chair: Kooiman

The question being on agreeing to the title of the bill.

Rep. Ward moved to amend the title to read as follows:

A bill to amend 1978 PA 33, entitled "An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts," by amending the title and sections 1, 2, and 4 (MCL 722 671, 722 672, and 722 674), section 1 as amended by 2003 PA 192, and by adding sections 12a and 12b, part II, and a heading for part I; and to repeal acts and parts of acts.

The motion prevailed.

The House agreed to the title as amended.

Rep. Ward moved that the bill be given immediate effect.

The motion prevailed, 2/3 of the members serving voting therefor.

Rep. Drolet, having reserved the right to explain his protest against the passage of the bill, made the following statement:

"Mr. Speaker and members of the House:

While this bill is well-intended, it is unnecessary and would plainly violate the First Amendment.

Restricting minors' access to video games based on 'violent' content is contrary to overwhelming judicial precedent. Every court having considered the issue has held that the government may not impose a content-based legal burden on video games or minors' access to video games. In these cases, courts have uniformly held that video games, just like books, movies, and television, are fully protected expression under the First Amendment. Courts have struck down parallel laws attempting to restrict the distribution of 'violent' video games because they failed to meet the exacting standards of strict scrutiny.

Restrictions on 'violent' video games may not be justified under the narrow doctrine established by the Supreme Court in *Brandenburg v. Ohio*. Under that doctrine, 'violent' speech may only be regulated if such speech is 'directed to inciting' and 'likely' to incite 'imminent' violence. The courts have uniformly held that there is no proof that 'violent' video games (or any video games) have a causal link to real-world harm.

This bill is not supported by the most independent research performed on the subject. Dr. Olson, Professor of Psychiatry at Harvard Medical School's Center for Mental Health and Media concluded in an article in *Academic Psychiatry*, Summer, 2004, 'Contrary to media headlines and public perceptions, there is little evidence of a substantial link between exposure to violent interactive games and serious real life violence or crime... It's time to move beyond blanket condemnations and frightening anecdotes and focus on developing targeted educational and policy interventions based on solid data.' Even the *Journal of the American Medical Association* published research by Brian Vastag last fall finds that 'Consensus is lacking on whether video games with violent content fuel aggressive behavior in children and adolescents.' This summer, the first long-term longitudinal study on the effects of playing online violent video games, funded by the University of Michigan, found no long-term increased levels of aggression from online game play.

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Additionally, restricting 'violent' video games can not be upheld as a traditional 'harmful to minors' statute. That narrow category, which may be regulated consistent with the First Amendment, is unquestionably limited to sexual speech. Two federal courts of appeals rejected 'harmful to minors'-styled enactments that restricted minors' access to 'violent' video games. And in a recent case in Washington, the federal district court expressly rejected a lower level 'harmful to minors' standard of scrutiny, noting that the Supreme Court has limited that analysis to material 'which is of sexual interest to minors'.

Finally, this bill is unconstitutional for the additional reason that there are less speech-restrictive alternatives to achieve the bill's end. The ESRB rating system which retailers across the state of Michigan are voluntarily enforcing represents one such less restrictive alternative."

Second Reading of Bills

Senate Bill No. 463, entitled

A bill to amend 1978 PA 33, entitled "An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts," by amending section 3 (MCL 722.673), as amended by 2003 PA 192.

Was read a second time, and the question being on the adoption of the proposed substitute (H-2) previously recommended by the Committee on Judiciary,

The substitute (H-2) was adopted, a majority of the members serving voting therefor.

Rep. Ward moved that the bill be placed on the order of Third Reading of Bills.

The motion prevailed.

Rep. Ward moved that the bill be placed on its immediate passage.

The motion prevailed, a majority of the members serving voting therefor.

By unanimous consent the House returned to the order of

Third Reading of Bills

Senate Bill No. 463, entitled

A bill to amend 1978 PA 33, entitled "An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts," by amending section 3 (MCL 722.673), as amended by 2003 PA 192.

Was read a third time and passed, a majority of the members serving voting therefor, by yeas and nays, as follows:

Roll Call No. 358

Yeas—106

Accavitti	Espinoza	Lemmons, Jr.	Rocca
Acciavatti	Farhat	Lipsey	Sak
Adamini	Farrah	Marleau	Schuitmaker
Amos	Gaffney	Mayes	Shaffer
Anderson	Garfield	McConico	Sheen
Angerer	Gillard	McDowell	Sheltrown
Ball	Gleason	Meisner	Smith, Alma
Baxter	Gonzales	Meyer	Smith, Virgil
Bennett	Gosselin	Miller	Spade
Booher	Green	Moolenaar	Stahl
Brandenburg	Hansen	Moore	Stakoe
Brown	Hildenbrand	Mortimer	Steil
Bynes	Hood	Murphy	Stewart
Byrum	Hoogendyk	Newell	Taub
Casperson	Hopgood	Nitz	Tobocman